

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE  
April 3, 2006 Session

**JULIA V. LEE, ET AL. v. STATE OF TENNESSEE**

**Appeal from the Tennessee Claims Commission  
No. 20201624 Vance W. Cheek, Jr., Commissioner**

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**No. E2005-02030-COA-R3-CV - FILED MAY 23, 2006**

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This appeal focuses on a request for post-judgment interest. This litigation began when Julia V. Lee and Robert Joe Lee (“the Claimants”) filed a claim against the State of Tennessee seeking to recover damages associated with the personal injuries sustained by Ms. Lee as a result of her tripping and falling on the campus of the University of Tennessee - Knoxville. The Claims Commissioner entered judgment in favor of the Claimants in the amount of \$37,000. The judgment was stayed pending an appeal by the State. This court dismissed the State’s appeal predicated upon the fact that the State’s notice of appeal was not timely filed. Subsequently, the State paid the judgment in full. The Claimants then filed a motion seeking an award of post-judgment interest. The Claims Commissioner denied the Claimants’ motion. They appeal, arguing that the Commissioner erred in failing to award them post-judgment interest. We reverse the Commissioner’s decision not to award post-judgment interest.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Claims Commission  
Reversed; Case Remanded**

CHARLES D. SUSANO, JR., J., delivered the opinion of the court, in which HERSCHEL P. FRANKS, P.J., and D. MICHAEL SWINEY, J., joined.

Charles C. Burks, Jr., Knoxville, Tennessee, for the appellants, Julia V. Lee and Robert Joe Lee.

Ronald C. Leadbetter, Associate General Counsel, Knoxville, Tennessee, for the appellee, State of Tennessee.

**OPINION**

**I.**

On April 30, 2001, Ms. Lee, a student at the University of Tennessee, fell on an uneven sidewalk while walking on campus. She and her spouse filed a claim against the State, alleging that

the State had negligently designed and/or maintained the sidewalk. On February 26, 2004, the Commissioner found the State liable for damages arising out of Ms. Lee's fall and awarded the Claimants \$37,000. The State filed a notice of appeal on April 1, 2004. Subsequently, the State filed a motion to stay execution of the judgment pending the appeal, which motion was granted by the Commissioner. In December, 2004, this court dismissed the State's appeal, holding that the appeal was not timely filed because the State had filed its notice of appeal more than 30 days after the entry of the Commissioner's judgment awarding damages. *Lee v. State*, No. E2004-00851-COA-R3-CV, 2004 WL 2964697, at \*1 (Tenn. Ct. App. E.S., filed December 22, 2004); *see also* Tenn. Code Ann. § 9-8-403(a)(1) & (k) (Supp. 2005); *see also* Tenn. R. App. P. 4(a) (providing that the notice of appeal "shall be filed with and received by the clerk of the trial court within 30 days after the date of entry of the judgment appealed from; . . ."). On March 24, 2005, the State paid the Claimants the full amount of the judgment. Thereafter, the Claimants filed a motion with the Commissioner requesting post-judgment interest from the date of the judgment, *i.e.*, February 26, 2004, to the date the judgment was paid, *i.e.*, March 24, 2005. The Commissioner, after a hearing on the matter, denied the Claimants' request for post-judgment interest, stating that

[t]he Commissioner **FINDS** that the appeal made by the [State] was proper and well taken, albeit unsuccessful. Further, the Commissioner **FINDS** that payment of the entered Judgment was made in a reasonable, arguably expeditious manner, therefore, the Claimant[s'] Motion is respectfully **DENIED**.

(Capitalization and bold type in original). This appeal followed.

## II.

The Claimants, by way of their sole issue on appeal, contend that the Commissioner abused his discretion in determining that they were not entitled to post-judgment interest. They assert that "[t]he Commissioner[']s decision lacked reasonable rational[e] and was void of any fairness or equity." The State argues that the Commissioner acted well within his discretion when he denied the Claimants' request for post-judgment interest.

## III.

A direct appeal from the Claims Commission is governed by Tenn. Code Ann. § 9-8-403(a)(1), which provides that a claimant may appeal the decision of an individual commissioner to the Court of Appeals pursuant to the Rules of Appellate Procedure. *Beare Co. v. State*, 814 S.W.2d 715, 717 (Tenn. 1991).

## IV.

Tennessee has a statutory scheme mandating the recovery of post-judgment interest. Tenn. Code Ann. §§ 47-14-121, 47-14-122 (2001). "Interest shall be computed on every judgment from

the day on which the jury or the court, sitting without a jury, returned the verdict without regard to a motion for a new trial.” Tenn. Code Ann. § 47-14-122. Interest on judgments shall be calculated at the rate of 10% *per annum* except where otherwise provided by statute. Tenn. Code Ann. § 47-14-121. However, there is a different statute addressing the imposition of post-judgment interest with respect to claims against the State:

If the claimant is successful with any claim filed with the claims commission . . . , the state shall pay such interest *as the commissioner may determine to be proper*, not exceeding the legal rate as provided in § 47-14-121. . . .

Tenn. Code Ann. § 9-8-307(d) (Supp. 2005) (emphasis added). It is clear that, under Tenn. Code Ann. § 9-8-307(d), a commissioner has discretion with respect to the subject of post-judgment interest. *See Taylor v. State*, No. 02A01-91090BC-00182, 1991 WL 268357, at \*3 (Tenn. Ct. App. W.S., filed December 18, 1991) (holding that “the commissioner [was] granted discretion to award interest on the judgment, even though the award of interest may bring the total amount collected . . . in excess of [the applicable] \$300,000.00 [cap on damages].”). As the State points out, the only statutory limit imposed on a commissioner’s discretion is that the award shall not exceed the 10% rate set forth in Tenn. Code Ann. § 47-14-121.

As we have stated, post-judgment interest on a damage award against the State is clearly a discretionary matter. Hence, the Commissioner’s judgment is reviewed under an abuse of discretion standard. Under that standard, a trial court – or, in this case, a commissioner – abuses its discretion when it “applie[s] an incorrect legal standard, or reache[s] a decision which is against logic or reasoning that cause[s] an injustice to the party complaining.” *Eldridge v. Eldridge*, 42 S.W.3d 82, 85 (Tenn. 2001) (quoting *State v. Shirley*, 6 S.W.3d 243, 247 (Tenn. 1999) (bracketing in *Eldridge*)).

Contrary to the Commissioner’s stated rationale for denying the Claimants’ request for post-judgment interest, the State’s appeal was not “proper [or] well taken.” *It was not taken at all*. Thus, the Commissioner erred in stating that the Claimants are not entitled to post-judgment interest because the State’s appeal, “albeit unsuccessful,” was, in his eyes, “proper and well taken.” Furthermore, the fact that the State paid the judgment within a “reasonable” or “arguably expeditious” time period *after* the appeal was dismissed is not material. This case should be viewed as if no notice of appeal was filed because an untimely-filed notice of appeal is a nullity and tantamount to no appeal being filed. Thus, in our view, we are dealing with a judgment that remained unpaid, without legal justification, from February 26, 2004, until March 24, 2005, a period of some 13 months. Accordingly, we hold that the Commissioner’s decision to completely deny the Claimants’ request for post-judgment interest constitutes an abuse of his discretion.

Under the circumstances of this case, we hold that the Claimants are entitled to an award of post-judgment interest. While we recognize that judgments against individuals and entities other

than the State accrue interest from and after the date of entry of the judgment,<sup>1</sup> we believe, as a general proposition, that a commissioner acts within his or her discretion whether the commissioner awards interest from the date of the judgment or from and after the 30-day period allowed for the filing of a notice of appeal. Accordingly, we hold that the Commissioner did not abuse his discretion to the extent that his judgment denying post-judgment interest pertains to the 30 days following the entry of his award of damages. Accordingly, we direct that interest will accrue on and after the 31st day following the date of the Commissioner's judgment awarding damages. In our opinion, a rate of 6% *per annum* is the appropriate rate of interest in this case.<sup>2</sup>

V.

The judgment of the Claims Commission with respect to the Claimants' motion for post-judgment interest is hereby reversed. We remand this case to the Claims Commission for the entry of an order awarding the Claimants post-judgment interest, at a rate of 6% *per annum*, beginning on the 31st day after the date of the Commissioner's judgment awarding damages and ending on the date the judgment was paid. Costs on appeal are taxed to the appellee, State of Tennessee.

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CHARLES D. SUSANO, JR., JUDGE

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<sup>1</sup>See *Tallent v. Cates*, 45 S.W. 3d 556, 563 (Tenn. Ct. App. 2000).

<sup>2</sup>This rate is more in keeping with the upper end of returns in financial markets during the relevant period of time than is the 10% rate of Tenn. Code Ann. § 47-14-121.